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Remarks

In the Office Action, the Examiner indicated that claims 1 through 26 are pending in the application and the Examiner rejected all claims.

The Objection to the Drawings

On page 2 of the Office Action, the Examiner objected to the drawings because they do not include element number 242. Applicant submits herewith a marked-up version of the drawings with element 242 written in by hand. If the change is acceptable to the Examiner, applicant will submit corrected drawings upon issuance of a Notice of Allowance.

no -
not included

The §101 Rejection

On pages 2-5 of the Office Action, the Examiner rejected all of the pending claims under 35 U.S.C. §101 as being directed toward non-statutory subject matter. Claims 1 and 14 have been amended in accordance with the Examiner's suggestion. Claims 2 and 15 have also been amended merely to improve their form. The Examiner is respectfully requested to reconsider and withdraw the rejection under 35 U.S.C. §101.

The Present Invention

The present invention provides a system and method for predicting the likelihood of materialization of pending reservations for the purchase of perishable commodities, which system and method provides for the gathering and analysis of *reservation information*

pertaining to perishable commodities for which reservations for purchase have been made in the past, gathering and analysis of *reservation information* pertaining to perishable commodities for which reservations for purchase are currently pending, and determining, based upon the analysis, the likelihood that a particular pending reservation will actually be purchased or “materialize”.

The term “reservation information” (both past and current) is clearly defined in the specification of the present invention as including commodity details, demographic information, and/or POS information relating to past or current reservations for perishable commodities. All of this *reservation information* is directed to all reservations that have been made. Further, they do not focus on a specific flight or other specific commodity; instead, they are related to all available commodities.

By gathering and analyzing data relating to the reservations on a global basis in this manner, characteristics of purchasers, commodities, and types of purchases can be analyzed and identified and utilized to characterize reservations generally and the people who made them, rather than specifically characterize one particular commodity (e.g., a particular flight).

U.S. Patent No. 4,775,936 to Jung

U.S. Patent No. 4,775,936 to Jung (“Jung”) teaches a system which tracks the frequency with which a particular flight experiences overbooking or underbooking, and based on this statistical analysis, increases the point at which that particular flight is considered “closed” to a number greater than 100% of capacity of the aircraft, with the exact percentage greater than 100% being based upon the historical data for that flight.

U.S. Patent No. 6,298,348 to Eldering

U.S. Patent No. 6,298,348 to Eldering ("Eldering") teaches a consumer profiling system in which consumer profiles are formed and updated based upon consumer's purchases. Demographic profiles of a "typical purchaser" of a product are identified and then advertising is tailored to the customer who meets the profile. Thus, Eldering is directed towards inducing a person to make a purchase, rather than identifying characteristics related to an already-made reservation order. The Examiner relies upon Eldering for its teaching of inclusion of point-of-sale and demographic information in profiling consumers.

U.S. Patent No. 5,191,523 to Whitesage

U.S. Patent No. 5,191,523 to Whitesage ("Whitesage") teaches a method and apparatus forming a system for deriving from computer-based travel reservation systems specific cost and time information, on per-unit basis, such that accurate cost information may be produced for comparison purposes. The Examiner relies upon Whitesage for an asserted teaching of the use of POS information including booking carrier, booking recency, and fare code information in a reservation system.

Rejection of Claims 1-2 and 14-15 under 35 U.S.C. §102(b)

On pages 5 and 6 of the Office Action, the Examiner rejected claims 1-2 and 14-15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,775,936 to Jung.

In order to support a rejection under 35 U.S.C. § 102, each and every element of the claim must be taught by the cited reference:

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"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) M.P.E.P. §2131.

As noted above, the present invention focuses on *reservation information* relating to past and current reservations for perishable commodities. A reservation, by its nature, is a conditional purchase. The person making the reservation does not need to be induced to make the reservation; by definition, the person making the reservation has already gone beyond that point and has conditionally agreed to make the purchase. Further, *reservation information*, as defined in the specification, is related to all reservations and not simply related to the "traffic information" of Jung, which is limited to information pertaining to a particular flight. Using the Jung system, only information pertaining to a specific flight is analyzed, and based upon past history of that flight, the decisions are made regarding booking levels.

disagree
cannot both
at same time

? this
appears
scope is
broader
Jung meets
all reqs.

By contrast, the present invention looks not only to information regarding past history of a particular flight, but also looks at details relating to all flights, for example, each purchaser of tickets for any flight, each person making reservations for any flight, the type of travel being conducted (e.g., business, pleasure, etc.), whether the person making the reservation is a frequent flyer, etc. In other words, in accordance with the present invention, this reservation information that is gathered and analyzed relates to why a particular person made a reservation and kept or dismissed the reservation, regardless of the particular flight on which the reservation was made. By analyzing the reservations in

this manner, a user of the present invention can identify the likelihood that certain reservations will be kept or dismissed, and then book flights accordingly.

This aspect of the present invention is specifically claimed in each of the independent claims:

1. (Amended) A method, using a processing device, for materialization forecasting with respect to reservations made by persons for the potential purchase of perishable commodities, comprising the steps of:
gathering past *reservation information* relating to past reservations for perishable commodities that have already perished;
gathering current *reservation information* relating to current reservations for perishable commodities that have not yet perished;
comparing said past *reservation information* and said current *reservation information* using said processing device;
calculating, based on said comparison, the likelihood that said current reservations will materialize; and
outputting, using said processing device, materialization forecast results based on said calculated likelihood.

14. (Amended) Computer-readable code embodied on computer-readable media for conducting materialization forecasting with respect to reservations made by persons for the potential purchase of perishable commodities, comprising:
first subprocesses for gathering past *reservation information* relating to past reservations for perishable commodities that have already perished;
second subprocesses for gathering current *reservation information* relating to current reservations for perishable commodities that have not yet perished;
third subprocesses for comparing said past *reservation information* and said current reservation information;
fourth subprocesses for calculating, based on said comprison, the likelihood that said current reservations will materialize; and
fifth subprocesses for outputting materialization forecast results based on said calculated likelihood.

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These claims specifically recite the gathering and analysis of reservation information. Jung is devoid of any such teachings. Thus, claims 1 and 14, and all claims depending therefrom, are in condition for allowance.

See
above

Rejection of Claims 3-11 and 16-24 under 35 U.S.C. §103(a)

On pages 7-9 of the Office Action, the Examiner rejected claims 3-11 and 16-24 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. Jung and further in view of U.S. Patent No. 6,298,348 to Eldering. Further, on pages 9 and 10 of the Office Action, the Examiner rejected claims 12-13 and 25-26 under 35 U.S.C. § 103(a) as being unpatentable over Jung and Eldering and further in view of U.S. Patent No. 5,191,523 to Whitesage.

The Examiner has not Established a *prima facie* Case of Obviousness

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combined reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143

As noted above, every pending claim in the present application requires the gathering and analysis of reservation information, a term which is clearly defined in the specification and which is clearly not taught or suggested in Jung. Neither the addition of Eldering nor Whitesage teaches or suggests this feature, and nothing in Jung suggests

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modifying its disclosure to include features that are taught in Eldering and/or Whitesage.

As noted above, the Examiner relies upon Eldering for an asserted teaching of demographic information and point-of-sale information in a customer profile system used for advertising. Nothing in Eldering teaches or suggests the use of reservation information as taught and claimed in the present invention.) same }

Likewise, as noted above, the Examiner relies on Whitesage for an asserted teaching of the use of POS information including booking carrier, booking recency, and fare code information in a reservation system. Nothing in Whitesage teaches or suggests the use of reservation information as defined and claimed in the present invention.) same }

Accordingly, the proposed combination of references indicated by the Examiner does not render the remaining claims obvious under 35 U.S.C. § 103. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 3-11, and 16-24 under 35 U.S.C. § 103.

Conclusion

The present invention is not taught or suggested by the prior art. The claims and drawings have been amended per the suggestion of the Examiner. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited. The Examiner is hereby authorized to

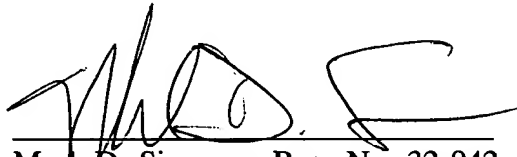
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charge any fees associated with this Communication to Deposit Account No. 50-0629. A duplicate of this Communication is enclosed for charging purposes.

Respectfully submitted,

Date APRIL 2, 2003

By:


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Enclosures

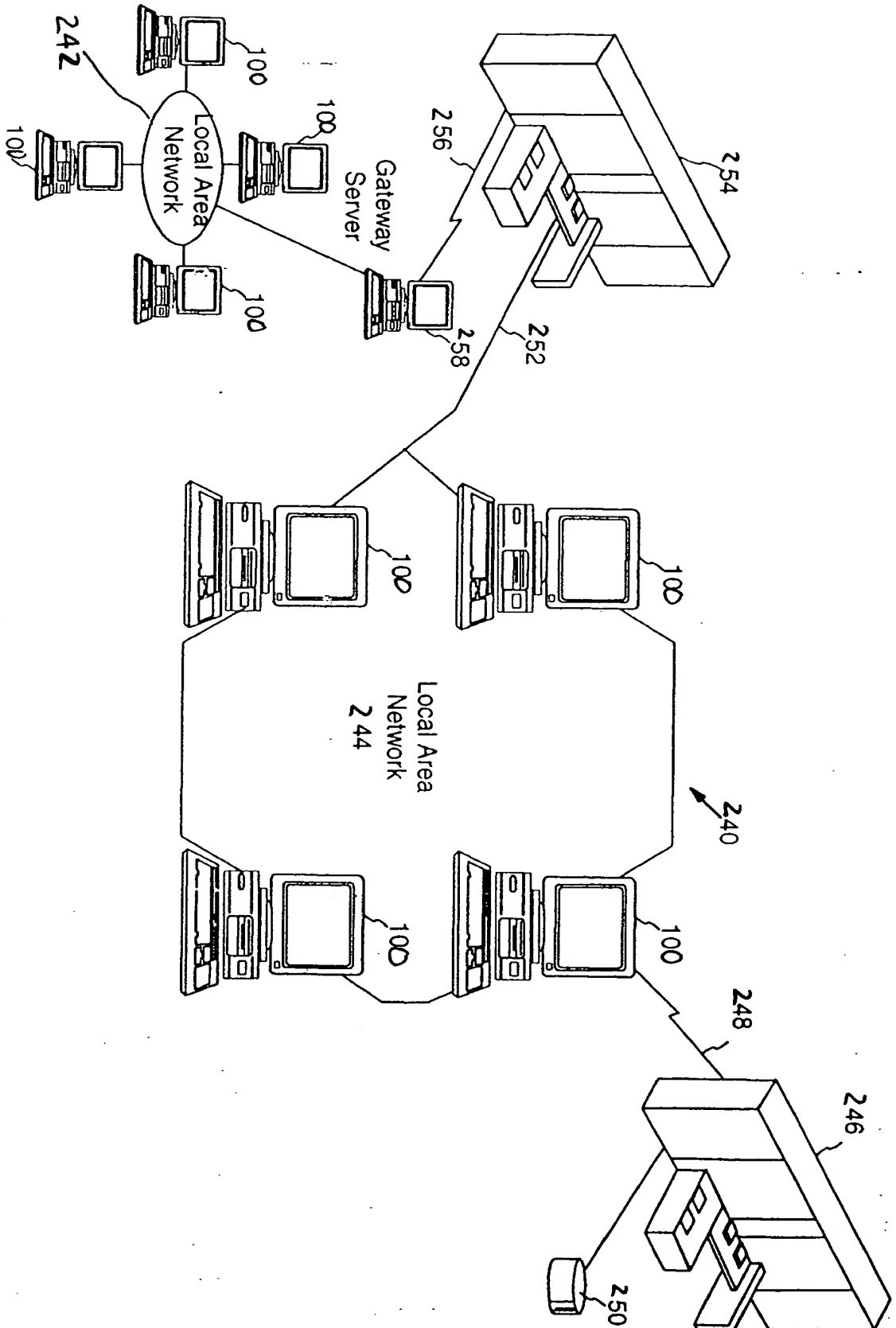


FIG. 2